IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/09/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION NO.9462 of 1997

National Small
Industries Corporation
represented by
its Regional Direcotr,
615, Anna Salai,
Madras 6. .. Petitioner

-Vs-

1. The Presiding Officer,
I Addl.Labour Court,
Madras.

2. V. Lakshminarayanan .. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of certiorari as stated therein.

For petitioner : No appearance

For 2nd respondent: Mr. C.K. Chandrasekaran
for M/s. Row & Reddy

:O R D E R

Petitioner-Corporation has filed the above writ petition praying to issue a writ of certiorari to call for the records of the first respondent relating to the Award dated 20.3.1997 in I.D. No.473/93 and to quash the same.

2. Today, when the above writ petition was taken up for consideration, though there was no representation on behalf of the petitioner, upon hearing the learned counsel for the second respondent, what could be gathered from the impugned order is that the petitioner who had joined the respondent management on 6.4.1987 as a Casual Employee had been working continuously without any break till 2nd May 1990; that the petitioner was called for an interview for the post of Apprentice Training (Shop Assistant) and on selection, the petitioner was paid a stipend of Rs.600/- per month during the first year and Rs.750/- per month during the second year and his

period of Apprentice Training ended on 2.5.1992 and that the petitioner's apprenticeship was terminated in terms of the selection order dated 26.4.1990; that the petitioner has sent many communications requesting the management to provide him employment on the ground that the termination without enquiry and notice is in violation of Sec.25(F) and 25(N) of the Industrial Disputes Act; and that the petitioner was ordered to be reinstated with backwages by the Labour Court. Aggrieved over the award of the Labour Court, the Petitioner-Corporation has come forward to file this Writ Petition.

3. This Writ Petition has been filed on the ground that the Labour Court has erroneously taken into consideration the period of working prior to his selection as apprentice inspite of the fact that the the second respondent was joined as a part time attendant/worker on a casual basis on daily wages; that the specific purpose for which the second respondent herein was engaged was for cleaning glasses, panes and also for cleaning and wiping of finished

products displayed at the centre; that he was terminated only in terms of the Selection Order dated 26.4.1990 which confers no right on the second respondent.

4. On a perusal of the impugned award, it is seen that the management witness (MW.1) has admitted that the second respondent has worked for the period from 1987 to 1992 continuously. Consequently, the Labour Court, on appreciation of the evidence adduced, and considering the facts and circumstances of the case, has concluded that the termination was bad and it would amount to retrenchment and the management ought to have followed the procedure prescribed under Section 25 (F) of the Industrial Disputes Act.
5. Learned counsel for the second respondent relies on a judgment reported in 2001 (3) L.L.N. 820 (Between Deep Chandra and State of Uttar Pradesh and another) wherein the Supreme Court has held that when an employee is put in service for more than 240 days in each year, his services cannot be put to an end without following the procedure prescribed under Section 25F of the Industrial Disputes Act.
6. The claim of the second respondent that he has worked for the period from 1987 to 1992 continuously is not denied by the PetitionerCorporation. In the facts and circumstances of the case, the decision in the aforesaid judgement is squarely applicable to the present case. Moreover, no valid ground is brought forth to cause interference of this Court in the award of the Labour Court.
In result,
(i) the Writ Petition is dismissed as without merits;
(ii) the award of the Labour Court dated 20.3.1997 in I.D. No.473 of 1993 is confirmed;
(iii) however, there shall be no order as to costs.

Index: yes
Internet:yes

asvm

To

The Presiding Officer,
I Addl.Labour Court,
Madras.